

REMARKS

The Office Action mailed September 29, 2008, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

CLAIM STATUS

Claims 1-17 are pending in this Application. By this Amendment, claims 1 and 5 have been amended while claims 2 and 11 have been cancelled. New independent claims 18 and 19 have been added.

Claim Rejections Under 35 USC § 112, Second Paragraph

Claims 1 and 3-17 stand rejected under 35 USC § 112, second paragraph as being indefinite.

The Office finds the definition of "succinamates" indefinite. Independent claim 1 has been amended by importing the definition of succinamate from now cancelled claim 2. It is believed the amendment renders clarity to the definition.

Claim 11 is objected to for various reasons. Claim 11 has been cancelled. In its stead, new claims 18 and 19 have been added, both of which are in independent form. Claim 18 recites an article comprising an aqueous colorant composition, while claim 19 recites a composition comprising an aqueous colorant composition. Both claims recite the aqueous colorant composition as it is claimed in independent claim 1.

In view of the foregoing, it is respectfully contended the 35 USC § 112, second paragraph, rejections have been overcome.

Claim Rejections Under 35 USC § 103(a)

Claims 1-17 stand rejected under 35 USC § 103(a) as being unpatentable over US Patent No. 5,938,830; Kuo et al. in combination with WO 03/008510 as translated by US Patent No. 7,285,592; Harz et al. This rejection is respectfully traversed.

In summary, the Office is of the position that one with ordinary skill in the art at the time the invention was made could have imported component C, namely, the anionic polyethylene glycol alkyl ether of Hartz et al. into the composition of Kuo et al. to arrive at the instantly disclosed invention. As an alternative theory of rejection, the Office posits that it would have been obvious to one with ordinary skill in the art at the time the invention was made to import component B, namely, the succinamate of Kuo et al. into the composition of Hartz et al. In conclusion the Office states:

There is no probative evidence that any additional components of the prior art colorant dispersions are excluded by "consisting essentially of", particularly that they materially affect the basic and novel characteristics of the composition and that they are not encompassed by the broad language of the instant claims such as components F and G. The claims are therefore interpreted as encompassing any additional component that might be required of the prior art.

It is Applicants' courteous position that neither rationale put forward by the Office is sustainable, as the Office does not recognize that the instant specification does indeed contain probative evidence that an acrylate resin is not to be present in the instantly claimed invention. The Office's attention is courteously directed to the Specification, page 14, line 20 to page 15, line 5 wherein it is stated:

Acrylate resins frequently used as dispersants, as well as some other polymers or copolymers having a relatively large number of terminal carboxyl radicals, tend to form insoluble complexes with multiply charged metal cations, such as Ca^{2+} , Mg^{2+} or Fe^{3+} for example, which can lead to flocculation and hence to low stability

of the dispersion in the presence of extraneous-salt impurities. Such metal impurities are often introduced into the dispersion by the pigment as a result of the process used to synthesize it, and this restricts the choice of suitable pigments. Such a negative influence of metal impurities is not observed with the dispersant system of the present invention. The dispersant system of the present invention is thus advantageously suitable for a large variety of pigments.

Thus, it is clear that the present invention, by its use of the transitional phrase "consisting essentially of," intended to exclude acrylate resins as they have been found to lead to flocculation as well as other problems within the final product.

With this in mind, its Applicants' respectful position that neither § 103 rational put forward by the Office is appropriate.

With respect to the first rational, namely, one with ordinary skill in the art would have imported the anionic polyethylene glycol alkyl ether of Hartz into the invention of Kuo et al., it is respectfully contended that the Office has dissected the prior art in a fashion that is impermissible given the disclosure of Hartz et al. Specifically, Applicants make reference to the fact that Hartz explicitly refers to the combinatorial effects of a special water soluble acrylate resin along with special dispersing aids. As stated in Column 1, lines 50-65, Hartz is unequivocally stating that both the acrylate resin and the special dispersing aid need to be present in order for the dispersion to work advantageously. The Office's position of merely excising the anionic polyethylene glycol alkyl ether from Hartz without including the acrylate resin in the resultant composition would not occur to one with ordinary skill in the art. Here the disclosure of Hartz et al. makes clear that it is the combination of acrylate resin with the anionic polyethylene glycol alkyl ether that provides advantage over the prior art. Therefore, one with ordinary skill in the art having a knowledge of Kuo et al. and Hartz et al. would be disinclined to add the anionic polyethylene glycol alkyl ether to the invention of Kuo et al. without also adding the

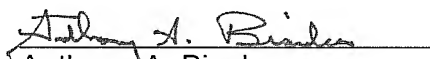
acrylate resin. As discussed above, this would be in contravention to the claimed invention.

Turning to the second rational for the rejection, namely, the placement of Kuo's succinamate in the composition of Hartz, it is Applicants' courteous position that such combination would not occur to the ordinary artisan and, even where such combination to be made, would not arrive at the claimed invention. As discussed above, the disclosure of Hartz undeniably states that an acrylate resin is to be present in its dispersion. In the instant specification, Applicants have stated that the acrylate resin is neither needed nor desired. Consequently, assuming, *arguendo*, one with ordinary skill in the art having a knowledge of Kuo and Hartz would add the succinamate to the Hartz dispersion, such addition would not arrive at the instantly claimed invention as Applicants explicitly seek to avoid the use of an acrylate resin.

For at least these reasons, it is respectfully contended that the instantly claimed invention can not be made obvious by any combination of Hartz et al. and Kuo et al. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejections.

In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,


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